

SENATE BILL REPORT

SB 6311

As Reported by Senate Committee On:
Agriculture, Water & Rural Economic Development, February 2, 2012

Title: An act relating to requiring proof of concept for water resource mitigation alternatives for human domestic needs in rural areas.

Brief Description: Requiring proof of concept for water resource mitigation alternatives for human domestic needs in rural areas.

Sponsors: Senators Haugen, Hobbs, Honeyford, Hatfield and Hargrove.

Brief History:

Committee Activity: Agriculture, Water & Rural Economic Development: 1/19/12, 2/02/12 [DPS].

SENATE COMMITTEE ON AGRICULTURE, WATER & RURAL ECONOMIC DEVELOPMENT

Majority Report: That Substitute Senate Bill No. 6311 be substituted therefor, and the substitute bill do pass.

Signed by Senators Hatfield, Chair; Shin, Vice Chair; Honeyford, Ranking Minority Member; Becker, Delvin, Haugen, Hobbs and Schoesler.

Staff: Bob Lee (786-7404)

Background: Some basin rules limit the quantity of water available for human domestic needs in rural areas served by septic systems to 350 gallons per day per home. Homeowners and builders in rural areas may desire to have access to greater quantities of water for home use. To protect instream flows and other senior water rights, persons are required to find water-budget neutral options to secure additional water supplies. A number of conceptual options have been suggested by the Department of Ecology (DOE) as potential mitigation options so that additional water supplies can be secured, but the legal and technical mechanisms are not in place to make these mitigation options readily implementable by homeowners.

Summary of Bill (Recommended Substitute): DOE is authorized to work collaboratively with interested groups to examine potential alternatives for increasing the amount of water otherwise allocated to rural homeowners and businesses under the Water Resources Act of

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1971. After screening the alternatives, DOE may take the following steps for those that are determined to be viable:

- Develop the criteria and mechanisms to provide clear and practical guidance for homeowners and builders.
- Anticipate the variety of conditions in the state and provide options suitable to meet the conditions that homeowners would likely encounter.
- Develop true-to-life examples of how the option would work in basins where limitations on water for human domestic uses are in effect. The examples must show how mitigation credits would be assigned and how the size of projects would be determined. It must also include cost estimates for each example, determine whether permits would be required, and say whether additional agency staff would be needed to implement the alternatives.

The Department of Health, Department of Fish and Wildlife, and the State Building Code Council may be requested to assist DOE in developing viable alternatives to make these options practical, economical, and safe.

When DOE determines, after consultation with involved groups, which alternatives have been demonstrated to be viable, DOE may submit proposed legislation that provides the legal framework necessary to utilize these mitigation alternatives.

A report to the Legislature may be provided by December 10, 2012, on the progress of this activity. The activities of the involved state agencies must be conducted using their existing available funds.

In addition to the alternative specifically listed in the bill, DOE or other interested party may suggest additional alternatives.

EFFECT OF CHANGES MADE BY AGRICULTURE, WATER & RURAL ECONOMIC DEVELOPMENT COMMITTEE (Recommended Substitute): Activities that were mandated to be performed by Ecology are made permissive. Instead of providing a final report to the Legislature by December 10, 2012, a progress report may be made.

Authority is provided for county legislative authorities to establish limited purpose water banks in areas where closures or partial closures are anticipated.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill: PRO: Because agricultural lands and industrial forest lands have been protected from urban encroachment, and because of the constraints on cities that are all located in the flood plain, there is not much place left to grow in Skagit County. The water restrictions in the rural areas have stopped growth there. People

wanting to build are citizens like you and me. There are several homes ready to start construction that can't because state water restrictions prevent it. Water is a basic human right. In a basin that has plenty of water, it is hard to understand why people can't access it to build their homes. The argument is that small withdrawals will harm fish, but these fish are the only endangered species that you can buy in the grocery store. Bills are important and timely, since state population has increased by 350 percent from 1945 to 2010. It is important to provide water for human use, and access to water should be considered as a human right.

CON: The concern is about unintended consequences, particularly with intermittent streams and cumulative impacts. Concerns center on the 350 gallons. The legislation is overbroad and opens up other problems in areas outside the Skagit.

OTHER: Bills will start the conversation and are committed to finding a path forward.

Note: SB 6311, SB 6312 and SB 6313 were taken as a package.

Persons Testifying: PRO: Senator Haugen, prime sponsor; Paul Pearce, Josh Weiss, WA State Assn.of Counties; Bill Clark, WA Realtors Assn.; Glen Smith, WA State Groundwater Assn.; Art Castle, Building Industry Assn. of WA; Jim Halstrom, WA State Horticultural Assn.

CON: Bruce Wishart, Center for Environmental Policy, Sierra Club; Dave Mastin, Muckleshoot Tribe.

OTHER: Evan Sheffels, DOE; Dawn Vyvyan, Yakama Nation; Jack Field, WA Cattlemen's Assn.